



U.S. Department of Justice
United States Attorney's Office
Southern District of Texas

1000 Louisiana
Suite 2300
Houston, Texas 77002

Phone (713) 567-9000
Fax (713) 718-3300

December 19, 2012

Rolando L. Rios
Law Offices of Rolando L. Rios
115 E. Travis Street, Suite 1645
San Antonio, TX 78205

Jose Garza
Law Office of Jose Garza
7414 Robin Rest Dr.
San Antonio, TX 78209

Roland J. Garcia
Carolyn M. Wentland, P.C.
115 E. Travis, Suite 724
San Antonio, TX 78205

RE: Case No. 5:12-cv-01018-FB; Jose Villareal Saldivar, et al. v. Susan D. Reed, et al.,
USDC, WDTX, San Antonio Division

Dear Gentlemen:

Your fax transmission of Summons and Complaint in the above-referenced case to DEA Special Agent Jennifer Sanchez does not constitute complete service of process in accordance with Rule 4(i)(3) of the Federal Rules of Civil Procedure.

Rule 4(i)(3) requires that in order to serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States behalf, a party must serve the United States and also serve the officer or employee under Rule 4(e), (f) or (g). This therefore requires that a copy of a summons (sealed and signed by the Clerk of the Court) and the complaint be served on the United States Attorney for the district in which the action is brought. The summons and complaint may be delivered to a Designated Civil Process Clerk, designated by the U.S. Attorney for the Western District of Texas to accept personal delivery of the summons and complaint. The summons and complaint may also be sent by registered or certified mail to the United States Attorney's Office, attention of the Civil Process Clerk.

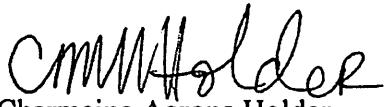
Also note that Rule 12(a) provides the United States or its officers or employees 60 days to file an answer to the complaint and this should be specified on the summons.



For your reference, I have attached an instruction sheet that provides details on perfecting service of process on the United States and its officers or employees. If you have any questions in regard to this letter relating to proper service on the United States, you may contact me at (713) 567-9765.

Sincerely,

KENNETH MAGIDSON
United States Attorney


Charmaine Aarons Holder
Assistant United States Attorney

cc: Hon. William G. Putnicki
U.S. District Clerk's Office
Western District of Texas
655 E. Cesar E. Chavez Blvd., Room G65
San Antonio, Texas 78206

John Paniszczyn, Civil Chief
United States Attorney's Office
601 N.W. Loop 410, Suite 600
San Antonio, TX 78216

INSTRUCTIONS FOR COMPLETING THE SUMMONS IN A CIVIL ACTION

- 1. A separate summons and complaint must be sent to each agency, officer or corporation involved in the suit. (Rule 4(i)(1) and (2)).**
- 2. For service on the United States, pursuant to Rule 4(i)(1)(A), complete the block under TO (name and address of defendant) with the following:**

**Robert Pitman
United States Attorney
601 N.W. Loop 410, Suite 600
San Antonio, TX 78216**

- 3. For service on the Attorney General, complete the block under TO (name and address of defendant) with the following:**

**United States Attorney General
U.S. Department of Justice
10th & Constitutional Avenue, N.W.
Washington, D.C. 20530**

- 4. For service on the officer, agency, or corporation involved in the suit, complete the block under TO with their appropriate address.**
- 5. The United States has 60 days after receipt of service to file an answer to the complaint. Do not enter a specific date in this section. (Rule 12(a)).**
- 6. The original, or a true copy of the summons, bearing the signature of the U.S. District Clerk's office is acceptable. (Rule 4(a) and (b)).**
- 7. The Civil Action Number and the U.S. District Clerks dated file stamp should appear on both the summons and the complaint.**
- 8. All Process Servers must come to 601 N.W. Loop 410, Suite 600, San Antonio, TX 78216 in order to effect personal service.**
- 9. Process Servers may be any person who is not a party to the lawsuit and who is at least 18 years old. (Rule 4(c)(2)).**
- 10. You may serve the summons and complaint by registered or certified mail. The envelope should be mailed to the following (Rule 4(i)):**

**Civil Process Clerk
United States Attorney's Office
601 N.W. Loop 410, Suite 600
San Antonio, TX 78216**

- 11. Serve a copy of the summons and complaint by registered or certified mail to the Attorney General at the address listed in number 3 above.**
- 12. Serve a copy of the summons and complaint by registered or certified mail to the officer, agency, or corporation involved in the case at their appropriate address.**

ROLANDO L. RIOS AND ASSOCIATES, PLLC

www.riosredistricting.com

rrios@rolandorioslaw.com

December 21, 2012

Charmaine Aarons Holder
Assistant United States Attorney
United States Attorney's Office
Southern District of Texas
1000 Louisiana, Suite 2300
Houston, Texas 77002

Via: Tang, Iris (USATXS)
[Meiching.ChenTang@usdoj.gov]
& First Class Mail

RE: Case No. 5:12-cv-01018FB; Jose Villarreal
Saldivar et al. v. Susan D. Reed, et al., USDA,
WDTX, San Antonio Division

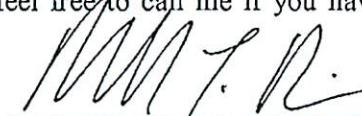
Dear Ms. Holder,

Thank you for the helpful information you sent us dated December 19, 2012 on the particulars concerning service of process on United States officers or employees.

Please be advised of the following:

1. At the November 19, 2012 hearing before Judge Biery attorney Keith Wyatt from your office entered an appearance on behalf of Special Agent Sanchez and she was present; see attached transcript. So apparently Agent Sanchez has in fact notice.
2. The service by fax was suggested by your client, Agent Sanchez and Agent Linoski and affirmed by the Bexar County District Attorney Gregory by email.
3. Agent Linoski has filed an answer and he was served the same way as Agent Sanchez; just like Agent Sanchez, he had an answer date of December 19th which is when he filed his answer.
4. Finally, the answer date was set electronically by the US District Clerks here in San Antonio.

Nevertheless, if it makes sense for us to agree on an answer date, please let me know. Please feel free to call me if you have any questions; thank you for your attention to this matter.


Rolando L. Rios
Attorney at Law

MILAM BUILDING 115 E. TRAVIS SUITE 1645 SAN ANTONIO, TEXAS 78205

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

3 THE STATE OF TEXAS,)
4 Plaintiff,)
5 vs.) Docket No. SA-12-CV-1038-FB
6 FOUR MILLION TWO HUNDRED) San Antonio, Texas
7 TWENTY-SIX THOUSAND) November 19, 2012
8 THIRTY-FIVE DOLLARS AND)
9 FIFTY-SEVEN CENTS)
10 (\$4,226,035.57) UNITED)
11 STATES CURRENCY; ONE (1))
12 2013 MERCEDES-BENZ S550, VIN)
WDDDDNG7DB0DA492458; ONE (1))
2008 CADILLAC ESCALADE, VIN)
3GYFK62878G167290; and)
CERTAIN PROPERTY,)
Defendants.)

TRANSCRIPT OF MOTION HEARING
BEFORE THE HONORABLE FRED BIERY
CHIEF UNITED STATES DISTRICT JUDGE

TRANSCRIPT ORDERED BY: Rolando Rios, Esquire

APPEARANCES:

FOR THE PLAINTIFF:

THE PLAINTIFF:
BEXAR COUNTY DISTRICT ATTORNEY'S OFFICE
By: Sue Ann Gregory, Esquire
By: Dawn Marie McCraw, Esquire
By: Troy Meinke, Esquire
By: Stephen P. Ballantyne, Jr., Esquire
300 Dolorosa, Suite 4049
San Antonio, TX 78205

FOR THE DEFENDANTS:

LAW OFFICES OF ROLANDO L. RIOS
By: Rolando L. Rios, Esquire
115 E. Travis Street, Suite 1645
San Antonio, TX 78205

1 Gregory from the Bexar County District Attorney's office. I'm
2 lead counsel on both cases; however, I'll be splitting part of
3 my duties with my --

4 THE COURT: Don't spit at me.

5 MS. GREGORY: I won't. I'll try not to, Judge.

6 These braces make it hard sometimes. I apologize in advance.
7 With me, my colleague, Dawn McCraw, who's the chief of our
8 asset forfeiture section. Patrick Ballantyne, who is the
9 criminal attorney signed to our white collar crime --

10 THE COURT: I'm sorry. The last name? Patrick --

11 MS. GREGORY: Ballantyne.

12 THE COURT: Ballantyne. Okay. All right. That's a
13 brand of scotch. I'm sure that's never touched your lips, Ms.
14 Gregory.

15 MS. GREGORY: Absolutely maybe.

16 THE COURT: All right. Go ahead.

17 MS. GREGORY: And also with me is Mr. Troy Meinke who
18 is the asset forfeiture attorney who was the filing attorney in
19 the state asset forfeiture case.

20 THE COURT: Okay. All right. And this gentleman?

21 MR. WYATT: Yeah. Your Honor, my name is Keith
22 Wyatt. I'm an assistant United States Attorney with the
23 Southern District of Texas in Houston.

24 THE COURT: Wyatt?

25 MR. WYATT: Wyatt, W-Y-A-T-T.

1 THE COURT: Okay.

2 MR. WYATT: And I represent Special Agent Jennifer
3 Sanchez of the DEA in the constitutional tort case.

4 THE COURT: Okay. And she has been named as a
5 defendant in 1038; is that right? Or no, I'm sorry, 1018.
6 1018. Okay. I got it. This is only two of 450 other cases.
7 So I'm going to have to learn as we go along. And I'll tell
8 you about my lawyers here in a moment and what they've briefed
9 me on.

10 All right. Are there any other -- Ms. Gregory, any
11 other announcements for -- on either case?

12 MS. GREGORY: Also with us is, from the state
13 Attorney General's office, Lieutenant Rudy Villarreal.

14 THE COURT: Okay. Very well.

15 MS. GREGORY: He is the supervisor for Sergeant
16 Marcos in the 1018 case. I don't believe the Attorney General
17 was aware that we were going to be taking proceedings in the
18 1018 case. I spoke with him, and they did not intend to be
19 here today on the 1038 case.

20 THE COURT: Okay. Well, I'm not sure what all we're
21 going to do, but at least this is the first opportunity for us
22 to get together. These things tend to take a long time. And
23 as of now, it's civil. And, of course, we have to give
24 precedence to the criminal cases. And I am booked solid
25 through next May on criminal trials, unless they should fall